

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

ANDREW BELANGER, JUSTIN PHILLIPS,
and CALVIN ZASTROW,
Plaintiffs,

v.

GRETCHEN WHITMER, in her official capacity as Governor for the State of Michigan, and CITY OF DETROIT,
Defendants.

Case No. 1:20-cv-291

**STIPULATED ORDER AND
NOTICE OF SETTLEMENT**

Hon. Janet T. Neff

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Plaintiffs Andrew Belanger, Justin Phillips, and Calvin Zastrow (collectively referred to as “Plaintiffs”), through counsel, Defendant Gretchen Whitmer, through counsel, and Defendant City of Detroit, through counsel, (collectively the “parties”), pursuant to the Court’s Order directing the parties to “confer and attempt in good faith to negotiate a resolution to this dispute,” hereby stipulate to the following and to the entry of the attached Order:

1. On April 1, 2020, Plaintiffs filed this lawsuit seeking to enjoin Defendants from enforcing Executive Order 2020-21 against them for engaging in peaceful, expressive religious activity on the public sidewalks and other public fora adjacent to abortion centers in the State of Michigan. Plaintiffs contend that this activity is protected by the First and Fourteenth Amendments to the United States Constitution. Plaintiffs further contend that they understand and intend to adhere to the social distancing measures recommended by the Centers for Disease Control and Prevention, specifically including remaining at least six feet from all people from outside the person’s household when engaging in their expressive religious activities.

2. On April 7, 2020, Defendant Whitmer issued the following guidance regarding the application and enforcement of Executive Order 2020-21:

Q: Does Executive Order 2020-21 prohibit persons from engaging in outdoor activities that are protected by the First Amendment to the United States Constitution?

A: No. Persons may engage in expressive activities protected by the First Amendment within the State of Michigan, but must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention, including remaining at least six feet from people from outside the person’s household.

(found at https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-522631--,00.html)

3. Defendants agree that Executive Order 2020-21 does not prohibit the conduct of Plaintiffs that is alleged in the Complaint. The City of Detroit shall dismiss the criminal citation issued to Plaintiff Andrew Belanger and any related criminal charges or proceedings that might

arise from this citation and the incident related to it. A true and correct copy of the citation is attached to the Complaint as Exhibit 2 (Doc. No. 1-2).

4. On April 9, 2020, Defendant Whitmer issued Executive Order 2020-42, in which she stated, in relevant part, “[W]ith this order, I find it reasonable and necessary to reaffirm the measures set forth in Executive Order 2020-21, clarify them, and extend their duration to April 30, 2020. This order takes effect on April 9, 2020 at 11:59 pm. When this order takes effect, Executive Order 2020-21 is rescinded.”

5. Defendants agree that the guidance regarding the application and enforcement of Executive Order 2020-21 set forth in paragraph 2 above applies with equal force to Executive Order 2020-42. Defendants further agree that Executive Order 2020-42 does not prohibit the conduct of Plaintiffs that is alleged in the Complaint.

6. Plaintiffs hereby release the City of Detroit and each of its employees, agents, departments, officers and representatives from any and all liabilities, damages, or claims, arising out of the incident underlying Plaintiffs’ complaint. Plaintiffs stipulate that their release is voluntary, that there is no prosecutorial misconduct involved in this matter and that enforcement of their release would not adversely affect the public interest. Plaintiffs agree to execute a release of liability as described above.

7. The parties agree that the above-captioned lawsuit shall be dismissed with prejudice as the provisions of this stipulation resolve Plaintiffs’ claims, and each party shall be responsible for his or her own costs and attorneys’ fees.

So stipulated this 13th day of April 2020.

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ORDER

Pursuant to the stipulation of the parties as set forth above, the provisions of this stipulation are hereby Ordered by the Court, and this case is dismissed with prejudice and without costs or attorneys' fees to any party.

This is a final order that resolves all pending claims and closes the case.

So Ordered this 14th day of April 2020.

/s/ Janet T. Neff
Janet T. Neff
United States District Court Judge